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**Water and Sewer**  
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## VIA ELECTRONIC CORRESPONDENCE

October 19, 2016

CCN: 60630

File No: 8.DC.52 & 77

Chief, Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Ben Franklin Station  
Washington, D.C. 20044-7611  
RE: DOJ No. 90-5-1-1-4022/1  
[Tom.Mariani@usdoj.gov](mailto:Tom.Mariani@usdoj.gov)

Chief, Clean Water Enforcement Branch  
Water Protection Division  
Attn: Brad Ammons  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
[Ammons.Brad@epa.gov](mailto:Ammons.Brad@epa.gov)

Rachael Amy Kamons  
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[Rachael.Kamons@usdoj.gov](mailto:Rachael.Kamons@usdoj.gov)

Florida Department of Environmental Protection  
Southeast District – West Palm Beach  
3301 Gun Club Road, MSC 7210-1  
West Palm Beach, FL 33406  
Attn: Compliance/Enforcement Section  
[Diane.Pupa@dep.state.fl.us](mailto:Diane.Pupa@dep.state.fl.us)

**RE: Consent Decree (Case: No. 1:12-cv-24400-FAM)**

**Reference DOJ Case No. 90-5-1-1-4022/1**

**Section XI, Paragraph 52 – Force Majeure**

**Section XVII, Paragraph 77 – Notices**

**Force Majeure Notification Letter for Consent Decree Appendix D-2, Capital Improvement Projects and Supplemental Environmental Project (SEP)**

Dear Sir/Madam:

In accordance with the provisions of Section XI, Paragraph 52 of the above referenced Consent Decree (CD), Miami-Dade (County) notified EPA and FDEP, via email, on October 5, 2016 of a potential delay related to the threat of Hurricane Matthew in the Appendix D-2 Capital Improvement Projects (CIP) and Supplemental Environmental Project (SEP).

In accordance with Section XI, Paragraph 52, this notification letter shall further describe and explain the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; County's rationale for attributing such delay to a force majeure event if it intends to assert such a claim; a statement as to whether, in the opinion of the County, such event

may cause or contribute to an endangerment to public health, welfare or the environment, and documentation to support the force majeure claim.

**Explanation and description of the reasons for the delay**

Hurricane and post hurricane impacts have the potential to create serious damage. The County and Water and Sewer Department (WASD) have administrative hurricane preparedness guidelines designed to maximize safety of the public and employees and mitigate potential damages due to such negative natural circumstances. The threat of Hurricane Matthew and the associated preventative activities caused a seven (7) day delay for CIPs in construction phase and a five (5) day delay for the CIPs in design, permitting, or procurement phases.

On October 4, 2016, Mr. Hardeep Anand, WASD Deputy Director of Capital Improvement Program, instructed all contractors performing CIPs construction work to immediately secure job sites and equipment which can become potential projectiles in preparation for the aforementioned storm (see Attachment A). Work activities on the construction sites resumed on Tuesday, October 11, 2016, resulting in a seven (7) day delay.

The County and WASD closed their office and relieved administrative employees of their duties on Wednesday October 5, 2016 at 2 PM (EST). This resulted in a delay of five (5) days for CIPs in design, permitting and procurement phases. Attachment B, is a table with the requested extension for each of the projects.

**Anticipated duration of the delay**

The County anticipates the following delays: 1) seven (7) days for CIPs in construction phase; 2) five (5) days for CIP in design, permitting, or procurement phases and 3) five (5) days for the SEP which is currently in design phase.

**Actions taken or to be taken to prevent or minimize the delay**

Construction sites were assessed for damages and construction resumed. No other actions need to be taken at this time.

**Schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay**

CIPs in Construction Phase			
	Date	Measures taken	Implementation
1)	October 4, 2016	Initiated the preventative hurricane preparedness activities on active construction sites and halted progress	Immediate

2)	October 11, 2016	Contractors on construction sites mobilized and construction activities resumed	Ongoing
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CIPs and SEP in Design, Permitting or Procurement Phase			
	Date	Measures taken	Implementation
1)	October 5, 2016	County and WASD employees relieved at 2:00 PM (EST).	Immediate
2)	October 11, 2016	Administrative activities resumed	Ongoing

**Rationale for attributing such delay to a force majeure event**

As defined in Section XI, Paragraph 51, "Force Majeure," is defined as any event arising from causes beyond the control of the County such as the aforementioned weather event.

**Cause or contribute to an endangerment to public health, welfare or the environment**

There is no indication that the delay caused by the preventative hurricane preparedness activities present an immediate endangerment to the public health, welfare or the environment.

Should you have any questions regarding this matter, please call me at (786) 552- 8120.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering such information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Sincerely,



Bertha Goldenberg, P.E., ENV SP, LEED® Green Associate  
 Assistant Director, Regulatory Compliance and Planning

Attachments: **Attachment A** – Communication – Mr. Hardeep Anand's Email to Contractor to Initiate the Preventative Hurricane Preparedness Activities  
**Attachment B** – Force Majeure Delays Impact on CIPs and SEP Table

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Florida Department of Environmental Protection  
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Miami-Dade County  
111 NW First Street 29<sup>th</sup> Floor  
Miami, Florida 33128

Lester Sola, Director  
Miami-Dade Water and Sewer Department  
3071 SW 38<sup>th</sup> Avenue  
Miami, Florida 33146

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## **Force Majeure Notification Letter Attachments**

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## Doyon, Cynthia (Consultant)

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**From:** Diaz, Abby (Consultant)  
**Sent:** Thursday, October 13, 2016 9:20 AM  
**To:** Doyon, Cynthia (Consultant)  
**Subject:** FW: Action Required: Hurricane Matthew Preparations

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**From:** Fuentes, Maricela [<mailto:Maricela.Fuentes@aecom.com>]  
**Sent:** Tuesday, October 04, 2016 4:19 PM  
**To:** Diaz, Abby (Consultant) <[Abby.Diaz@miamidade.gov](mailto:Abby.Diaz@miamidade.gov)>  
**Cc:** Wood, David M (Miami) <[David.M.Wood@aecom.com](mailto:David.M.Wood@aecom.com)>  
**Subject:** FW: Action Required: Hurricane Matthew Preparations

Abby, see below. I would suggest a call to Brad for potential Force Majeure notification.

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**From:** Anand, Hardeep (WASD) [<mailto:hardeep.anand@miamidade.gov>]  
**Sent:** Tuesday, October 04, 2016 4:12 PM  
**To:** Fernandez, Vicente (WASD); Roque, Rolando M. (WASD); Ferguson, James (WASD); Smith, Isaac (WASD); Edwards, Daniel J. (WASD); An, Huren (Jeff) (WASD); Goldenberg, Bertha M. (WASD); Concepcion, Harold (WASD); Fuentes, Maricela; Wood, David M (Miami); Evelio Agustin; Molina, Maria J. (Consultant); Franklin Torrealba  
**Cc:** Cotarelo, Antonio (WASD); Morejon, Maria (WASD)  
**Subject:** Action Required: Hurricane Matthew Preparations

Good Afternoon,

Please share the following with your respective staff and ensure we implement the following:

As Hurricane Matthew approaches we need to ensure that all contractors performing work within the public right of way shall immediately secure their job sites and equipment which can become potential projectiles (e.g., barricades, traffic control devices, etc.) during the storm event. Please ensure that these directives are given to all contractors on all of our active construction projects throughout the county. No work shall commence until we have provided them the "All Clear". WASD Inspection staff / PM-CM staff (as applicable) shall personally visit and inspect each of our active construction sites to ensure that we have taken all precautionary

measures to secure our sites and render them safe. Let's take pre-storm photographs of our sites as well for record purposes after they have been properly secured.

Construction Inspectors who perform site inspections may take the county vehicle home until we are back to normal after the storm event. We need to also make sure that all vehicles are fueled up and ready to be deployed as needed. Please verify and confirm all telephone numbers are accurate in your calling tree within your Natural Disaster Plan.

Finally, take the time to ensure that you are "storm ready" on the family front and Be Safe! Let's keep our fingers crossed that this will be a low impact storm which we have to deal with.

Note: By Noon tomorrow or as soon as your teams have accomplished the above, please send Harold and myself an email that you have completed the above so that we can report up accordingly. If you need assistance, this is the time for other staff members to step up as needed (Construction Managers 2, and 3, Engineers, PE's and Sr. PE's).

Should you have any questions, please reach out to myself or Harold directly.

Thanks,

**Hardeep Anand, P.E.**, Deputy Director  
Capital Improvement Program  
Miami-Dade Water and Sewer Department  
3071 SW 38<sup>th</sup> Avenue, Miami, FL 33146

Phone: 786-552-8571 | Fax: 786-552-8639

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## Force Majeure Delays Impact on CIPs and SEP Table

Parent Project Phase	Project	Delay in Days	Current EPA Compliance Date	Requested EPA Compliance Date
DESIGN	1.05 Effluent Pump Station	5	4/7/2022	4/12/2022
	2.11 Effluent Pump Station	5	5/9/2020	5/14/2020
	2.19 Co-Gen Improvements	5	3/31/2019	4/5/2019
	2.25 Ventilation Improvements	5	2/27/2025	3/4/2025
	2.27 Oxygen Production	5	12/30/2019	1/4/2020
	5.02 Upgrade of PS#0691	5	1/27/2019	2/1/2019
	5.03 Upgrade of PS#0692	5	1/27/2019	2/1/2019
	6.0 Supplemental Environmental Project (SEP)	5	12/6/2018	12/11/2018
PERMITTING	1.02 Oxygen Production	5	9/13/2019	9/18/2019
	1.07 Digesters and Control Building	5	10/28/2021	11/2/2021
	1.11 General Electrical	5	3/26/2021	3/31/2021
	2.08 Secondary Clarifiers Plant 2	5	9/12/2023	9/17/2023
	2.15 Digesters Plant 2 Cluster 2	5	7/21/2022	7/26/2022
	2.21 Pump Station No.1	5	10/23/2019	10/28/2019
	3.02 Primary Clarifiers and Odor Control	5	4/18/2021	4/23/2021
	3.06 Disinfection	5	9/9/2020	9/14/2020
	5.04 Replacement of Switchgear PS#0414	5	5/9/2018	5/14/2018
	5.05 Replacement of Switchgear and Rehabilitation of Wetwell PS#0415	5	1/27/2019	2/1/2019
	5.06 Replacement of Switchgear PS#0416	5	5/9/2018	5/14/2018
	5.07 Replacement of Switchgear and Rehabilitation of Wetwell PS#0417	5	1/27/2019	2/1/2019
	5.09 Replacement of Pumping and Electrical Equipment at PS#0301	5	5/9/2018	5/14/2018
	5.11 Installation of 60 inch FM from Kendall Dr to PS#0536	5	5/9/2018	5/14/2018
	5.17 Upgrade of PS#0037, 0351, 0370, 0403	5	12/31/2017	1/5/2018
PROCUREMENT	1.06 Gravity Sludge Thickeners	5	9/24/2022	9/29/2022
	1.08 Dewatering Facility	5	11/28/2019	12/3/2019
	1.09 FOG Removal Facility	5	12/7/2017	12/12/2017
	2.01 Miscellaneous Electrical Improvements	5	3/6/2020	3/11/2020
	2.12 Gravity Sludge Thickeners Plant 1	5	4/23/2021	4/28/2021
	2.13 Gravity Sludge Thickeners Plant 2	5	10/23/2019	10/28/2019
	2.16 Dewatering Building	5	8/7/2021	8/12/2021
	2.18 Odor Control Systems	5	7/9/2020	7/14/2020
	2.22 Pump Station No.2	5	10/22/2017	10/27/2017

## Force Majeure Delays Impact on CIPs and SEP Table

Parent Project		Delay in	Current EPA	Requested EPA
Phase	Project	Days	Compliance Date	Compliance Date
PROCUREMENT	2.24 Gas Monitoring and Alarms	5	9/19/2017	9/24/2017
	4.05 South Dade 54 inch PCCP FM Rehabilitation	5	11/27/2017	12/2/2017
	4.10 Opa-Locka Airport 48" PCCP Force Main Replacement	5	1/28/2018	2/2/2018
	5.08 Replacement of Electrical and Mechanical Equipment in PS#0107	5	1/27/2019	2/1/2019
	5.12 Replacement of Switchgear at PS#0187	5	5/9/2018	5/14/2018
DESIGN-BUILD	4.03 Government Cut FM - Phase 3	7	4/8/2017	4/15/2017
CONSTRUCTION	1.01 Headworks	7	2/23/2020	3/1/2020
	1.03 Oxygenation Trains	7	11/16/2025	11/23/2025
	1.12 Chlorine Contact Chamber Structural Rehab	7	6/18/2021	6/25/2021
	2.02 Building Improvements	7	9/6/2017	9/13/2017
	2.03 Headworks/Grit Basin Plant 1	7	10/22/2017	10/29/2017
	2.04 Headworks/Grit Basin Plant 2	7	5/22/2018	5/29/2018
	2.06 Oxygenation Trains Plant 2	7	4/14/2022	4/21/2022
	2.10 Return Sludge PS Plant 2	7	9/12/2023	9/19/2023
	2.15 Digesters Plant 2 Cluster 1	7	4/30/2018	5/7/2018
	2.17 Chlorination Facilities	7	9/29/2017	10/6/2017
	2.26 Rehabilitation of Walkways and Stairways	7	9/27/2027	10/4/2027
	3.01 Headworks and Sludge Degritting & Transfer	7	4/7/2018	4/14/2018
	3.05 Secondary Clarifiers	7	8/24/2027	8/31/2027
	3.07 Effluent Disposal	7	12/28/2021	1/4/2022
	3.08 Plant Wide Electrical	7	8/20/2022	8/27/2022
	4.01 Collection System I/I Repairs	7	9/27/2027	10/4/2027
	4.08 Rehabilitation of 54 inch PCCP FM in the City	7	4/9/2017	4/16/2017
	4.09 Replace Approximately 30 miles of AC FM Transmission System	7	10/8/2019	10/15/2019
	5.01 Upgrade of PS#0418	7	11/24/2018	12/1/2018
	5.10 Upgrade of PS#0488	7	5/9/2018	5/16/2018
	5.16 Upgrade of PS#0198, 0437, 0466, 0680	7	12/31/2016	1/7/2017